

ESHB 1709 - S AMD 335

By Senator Benton

ADOPTED 4/13/2009

1 Strike everything after the enacting clause and insert the
2 following:

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5 **Sec. 1.** RCW 31.45.073 and 2003 c 86 s 8 are each amended to read
6 as follows:

7 (1) No licensee may engage in the business of making small loans
8 without first obtaining a small loan endorsement to its license from
9 the director in accordance with this chapter. An endorsement will be
10 required for each location where a licensee engages in the business of
11 making small loans, but a small loan endorsement may authorize a
12 licensee to make small loans at a location different than the licensed
13 locations where it cashes or sells checks. A licensee may have more
14 than one endorsement.

15 (2) The termination date of a small loan may not exceed the
16 origination date of that same small loan by more than forty-five days,
17 including weekends and holidays, unless the term of the loan is
18 extended by agreement of both the borrower and the licensee and no
19 additional fee or interest is charged. The maximum principal amount
20 of any small loan, or the outstanding principal balances of all small
21 loans made by ((a)) all licensees to a single borrower at any one
22 time, may not exceed seven hundred dollars or thirty percent of the
23 gross monthly income of the borrower, whichever is lower.

24 (3) A licensee that has obtained the required small loan
25 endorsement may charge interest or fees for small loans not to exceed
26 in the aggregate fifteen percent of the first five hundred dollars of
27 principal. If the principal exceeds five hundred dollars, a licensee

1 may charge interest or fees not to exceed in the aggregate ten percent
2 of that portion of the principal in excess of five hundred dollars.
3 If a licensee makes more than one loan to a single borrower, and the
4 aggregated principal of all loans made to that borrower exceeds five
5 hundred dollars at any one time, the licensee may charge interest or
6 fees not to exceed in the aggregate ten percent on that portion of the
7 aggregated principal of all loans at any one time that is in excess of
8 five hundred dollars. The director may determine by rule which fees,
9 if any, are not subject to the interest or fee limitations described
10 in this section. It is a violation of this chapter for any licensee
11 to knowingly loan to a single borrower at any one time, in a single
12 loan or in the aggregate, more than the maximum principal amount
13 described in this section.

14 (4)In connection with making a small loan, a licensee may advance
15 moneys on the security of a postdated check. The licensee may not
16 accept any other property, title to property, or other evidence of
17 ownership of property as collateral for a small loan. The licensee
18 may accept only one postdated check per loan as security for the loan.
19 A licensee may permit a borrower to redeem a postdated check with a
20 payment of cash or the equivalent of cash. The licensee may disburse
21 the proceeds of a small loan in cash, in the form of a check, or in
22 the form of the electronic equivalent of cash or a check.

23 (5)No person may at any time cash or advance any moneys on a
24 postdated check or draft in excess of the amount of goods or services
25 purchased without first obtaining a small loan endorsement to a check
26 casher or check seller license.

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29 NEW SECTION. **Sec. 2.** A new section is added to chapter 31.45 RCW
30 to read as follows:

31 (1) The director must, by contract with a vendor or service
32 provider or otherwise, develop and implement a system by means of
33 which a licensee may determine:

34 (a) Whether a consumer has an outstanding small loan;

1 (b) The number of small loans the consumer has outstanding;
2 (c) Whether the borrower is eligible for a loan under RCW
3 31.45.073;
4 (d) Whether the borrower is in a payment plan; and
5 (e) Any other information necessary to comply with chapter 31.45
6 RCW.

7 (2) The director may specify the form and contents of the system
8 by rule. Any system must provide that the information entered into or
9 stored by the system is:

10 (a) Accessible to and usable by licensees and the director from
11 any location in this state; and
12 (b) Secured against public disclosure, tampering, theft, or
13 unauthorized acquisition or use.

14 (3) If the system described in subsection (1) of this section is
15 developed and implemented, a licensee making small loans under chapter
16 31.45 RCW must enter or update the required information in subsection
17 (1) of this section at the time that the small loan transaction is
18 conducted by the licensee.

19 (4) A licensee must continue to enter and update all required
20 information for any loans subject to chapter 31.45 RCW that are
21 outstanding or have not yet expired after the date on which the
22 licensee no longer has the license or small loan endorsement required
23 by this chapter. Within ten business days after ceasing to make loans
24 subject to chapter 31.45 RCW, the licensee must submit a plan for
25 continuing compliance with this subsection to the director for
26 approval. The director must promptly approve or disapprove the plan
27 and may require the licensee to submit a new or modified plan that
28 ensures compliance with this subsection.

29 (5) If the system described in subsection (1) of this section is
30 developed and implemented, the director shall adopt rules to set the
31 fees licensees shall pay to the vendor or service provider for the
32 operation and administration of the system and the administration of
33 this chapter by the department.

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1 (6) The director shall adopt rules establishing standards for the
2 retention, archiving, and deletion of information entered into or
3 stored by the system described in subsection (1) of this section.

4 (7) The information in the system described in subsection (1) of
5 this section is not subject to public inspection or disclosure under
6 chapter 42.56 RCW.

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8 **Sec. 3.** RCW 42.56.230 and 2008 c 200 s 5 are each amended to read
9 as follows:

10 The following personal information is exempt from public
11 inspection and copying under this chapter:

12 (1) Personal information in any files maintained for students in
13 public schools, patients or clients of public institutions or public
14 health agencies, or welfare recipients;

15 (2) Personal information in files maintained for employees,
16 appointees, or elected officials of any public agency to the extent
17 that disclosure would violate their right to privacy;

18 (3) Information required of any taxpayer in connection with the
19 assessment or collection of any tax if the disclosure of the
20 information to other persons would (a) be prohibited to such persons
21 by RCW 84.08.210, 82.32.330, 84.40.020, or 84.40.340 or (b) violate
22 the taxpayer's right to privacy or result in unfair competitive
23 disadvantage to the taxpayer;

24 (4) Credit card numbers, debit card numbers, electronic check
25 numbers, card expiration dates, or bank or other financial account
26 numbers, except when disclosure is expressly required by or governed
27 by other law; (~~and~~)

28 (5) Personal and financial information related to a small loan or
29 any system of authorizing a small loan in section 1 of this act; and

30 (6) Documents and related materials and scanned images of
31 documents and related materials used to prove identity, age,
32 residential address, social security number, or other personal
33 information required to apply for a driver's license or identicard.

1 NEW SECTION. **Sec. 4.** The director or the director's designee may
2 take the actions necessary to ensure this act is implemented on its
3 effective date.

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5 NEW SECTION. **Sec. 5.** This act takes effect January 1, 2010.

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8 Renumber the sections consecutively and correct any internal
9 references accordingly.

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14 On page 1, line 1 of the title, after "loans;" strike the
15 remainder of the title and insert the following: "amending 31.45.073
16 and 42.56.230; adding new sections to chapter 31.45 RCW; creating new
17 sections; and providing an effective date".

EFFECT: For small loans, a borrower may only borrow up to \$700
or 30% of his or her gross monthly income at any one time. DFI is
to create a database. The personal information in the database is
not subject to public disclosure. The bill takes effect date of
January 1, 2010.

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